

Appl. No. 10/600,266
Reply to Office Action of February 21, 2007

REMARKS/ARGUMENTS

The rejection of claims over Ogletree in view of Bernat and further in view of Koike is maintained over the claims.

Ogletree is effective as a reference based on its U.S. provisional application filing date, as of November 3, 1998. However, it did not publish until January 21, 2003. Since the present application was filed June 20, 2003, it has a filing date of less than one year after the Ogletree publication and, therefore, Ogletree is not a reference as defined in 35 USC 102(b) but rather as a reference defined by 35 USC 102(a).

Enclosed herewith is a Declaration by Dr. Asai, the first named inventor, which provides evidence that the present invention was reduced to practice before the effective date of Ogletree. Based on this Declaration and the notebook pages annexed thereto, it is submitted that the present invention predates Ogletree as a reference.

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In view of the above, withdrawal of the rejections based on Ogletree, and allowance of the application are respectfully requested.

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Respectfully submitted,

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**Encs. Declaration of Dr. Fumitoshi Asai with attachments
Petition for Extension of Time - three months
Form PTO-2038 in the amount of \$1,050 - Extension of
Time
Form PTO-2038 in the amount of \$810 - RCE
IDS**